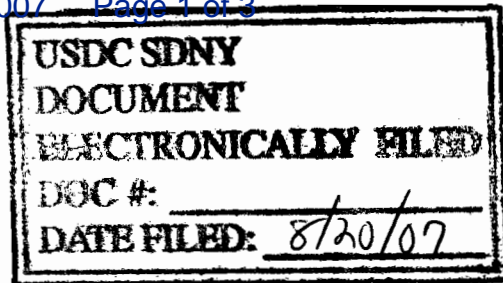


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



ETHAN ALLEN GLOBAL, INC.

Plaintiff,

v.

PEOPLES AMERICANA, INC.,
JJ PEOPLES, VAN DEWALD, and
HERSCHEL D. PRUITT

Defendants.

Case No. 07 Civ 7389 (JES)

AUGUST 20, 2007

TEMPORARY RESTRAINING ORDER

Upon the Verified Complaint with attachments, the Affidavit of Jack DeKorne, the Affidavit of Erika L. Amarante, and the memorandum of law in support of plaintiff's motion for emergency ex parte temporary restraining order and preliminary injunction, the Court hereby finds that:

(a) Plaintiff Ethan Allen is the sole owner of the ETHAN ALLEN trademarks, brand name and associated rights;

(b) Plaintiff Ethan Allen has neither consented to nor authorized the "Furniture & Rug Auction" that Defendants advertised and are conducting in the Ethan Allen name;

(c) Plaintiff Ethan Allen will suffer immediate and irreparable injury, loss and/or damage to its brand, reputation and goodwill if the unauthorized auction continues;

(d) Plaintiff Ethan Allen has demonstrated a likelihood of success on the merits of the claims in its Verified Complaint;

(e) The public interest will also be served by enjoining Defendants from deceiving, misleading and confusing consumers into believing that the “Furniture & Rug Auction” is sanctioned by Ethan Allen and contains exclusively Ethan Allen products; and

(f) Plaintiff Ethan Allen has attempted to notify the Defendants of this action, and has demonstrated that further notice is not required because the delay required for that notice would cause further irreparable harm the Plaintiff.

Accordingly, on these factual findings, it is hereby:

ORDERED that, sufficient reason having been shown therefor, pending the hearing of Plaintiff’s application for a preliminary injunction, pursuant to Fed R. Civ. P. 65, the Defendants are temporarily restrained and enjoined from (a) conducting or advertising any auctions in the Ethan Allen name, or otherwise infringing or diluting the ETHAN ALLEN Mark or ETHAN ALLEN Family of Marks, including but not limited to the auction currently scheduled for August 20 and 21 at 1:00 p.m.; (b) displaying the ETHAN ALLEN Marks, ETHAN ALLEN Family of Marks and Ethan Allen brand name at the 192 Lexington Avenue location; (c) making any statement or representation whatsoever with respect to products or services that falsely designates Plaintiff as the origin of the products or services or is otherwise false or misleading; (d) otherwise making unauthorized use of or infringing upon the ETHAN ALLEN Marks, ETHAN ALLEN Family of Marks or other trademarks of Plaintiff; and (e) any other conduct that would cause or is likely to cause confusion, mistake, or misunderstanding as to the source, affiliation, connection, or association of Defendants’ products or services with Plaintiff or Plaintiff’s goods and services; and it is further

ORDERED that security shall be waived and this Order shall take immediate effect, given the emergency circumstances, Plaintiff’s status as a well-known international retailer and

distributor of fine home furnishings, and the significant harm that Plaintiff will suffer absent and immediate temporary restraining order; and it is further

ORDERED that, Plaintiff shall post security (and/or file an applicable letter of credit with the Court) in the amount of \$ 25,000 within five days of this Order; and it is further

ORDERED that personal service of a copy of this order and annexed affidavit upon the defendant ~~or his counsel~~ ^{at} ~~on~~ ^{first} on or before 3pm o'clock in the ~~noon~~ ^{evening}, Aug 21, 2007, shall be deemed good and sufficient service thereof.

DATED: New York, New York

August 20, 2007

ISSUED: 12:45pm M


PART I
United States District Judge

